



## FAIR POLITICAL PRACTICES COMMISSION

428 J Street • Suite 620 • Sacramento, CA 95814-2329

(916) 322-5660 • Fax (916) 322-0886

September 12, 2011

✓ Peter Allan

**REDACTED**

RE: Advisory Letter

FPPC Case No. 10/944; Peter Allan

Dear Mr. Allan:

The Fair Political Practices Commission (FPPC) enforces the provisions of the Political Reform Act (the Act)<sup>1</sup> found in Government Code section 81000, and following. The Enforcement Division received a complaint against you, alleging that you may have violated the conflict of interest provisions of the Act when you voted as an Apple Valley Councilmember on October 27, 2009, on a matter which included the vote to move forward with escrow of the Apple Valley Country Club ("Country Club") as contemplated by the original purchase agreement, in which you were a non-salaried equity member of the Country Club. After a full investigation, we have determined that there is insufficient evidence to find that you violated the Act. As a result, we are closing this case with an Advisory letter.

The primary purpose for the conflict of interest provisions of the Act is to ensure that public officials, whether elected or appointed, perform their duties in an impartial manner, free from bias caused by their own financial interests or the financial interests of persons who have supported them. (Section 81001, subd. (b).) As a result, Section 87100 prohibits public officials from making, participating in making, or attempting to use their official position to influence a governmental decision in which they know, or have reason to know, that they have a financial interest. To determine whether an individual has a disqualifying conflict of interest, the Commission generally employs the following sequenced analysis: (1) is the individual a public official; (2) did the official make, participate in making, or use or attempt to use the official position to influence a governmental decision; (3) what are the official's economic interests; (4) are the official's economic interests directly or indirectly involved in the governmental decision; (5) what is the applicable materiality standard for each economic interest involved; and (6) is it reasonably foreseeable that the governmental decision will have a material financial effect on the official's economic interest.<sup>2</sup> (See Regulation 18700.)

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<sup>1</sup> The Political Reform Act is contained in Government Code Sections 81000 through 91014. All statutory references are to the Government Code, unless otherwise indicated. The regulations of the Fair Political Practices Commission are contained in Sections 18110 through 18997 of Title 2 of the California Code of Regulations. All regulatory references are to Title 2, Division 6 of the California Code of Regulations, unless otherwise indicated.

<sup>2</sup> The additional two steps of the analysis are inapplicable in this matter.

As a member of the Apple Valley Town Council, you were a public official under the Act. By voting on October 27, 2009, you made a governmental decision. According to the complaint, and records obtained during the investigation, you had an equity membership in the Country Club. Your equity membership afforded you a discount that was similar to the senior and resident discounts available to you and to eligible members of the general public. However, based on our investigation into this matter, there is insufficient evidence to establish that the financial effects of the governmental decision you made would cause a reasonably foreseeable material financial effect on your economic interests given the nature of the decision. Therefore, we have decided to close this case with this advisory letter.

Your failure to comply with the provisions of the Act in the future may result in an enforcement action against you, including monetary penalties of up to \$5,000 for each violation.

The FPPC publishes forms and manuals to facilitate compliance with the provisions of the Act. If you need forms or manuals, or guidance regarding your obligations, please call the FPPC's Technical Assistance Division at 1-866-275-3772. Please also visit our website at [www.fppc.ca.gov](http://www.fppc.ca.gov). If you have questions regarding this matter, please contact us at (916) 322-5660.

Sincerely,

**REDACTED**

~  
Bridgette Castillo  
Commission Counsel  
Enforcement Division